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12 MICROSOFT CORPORATION  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

1 MICROSOFT CORPORATION, )  
2 Plaintiff, )  
3 v. )  
4 JULIANNA PAK, an individual d/b/a )  
5 IBENEVOLO and IBENEVOLO.COM; )  
6 JULIANNA PAK, an individual; and MARK )  
7 PAK, an individual, )  
8 Defendants. )  
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COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF

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Microsoft Corporation (“Microsoft”) brings this action against Defendants Julianna Pak, an individual doing business as ibenevolo and ibenevolo.com; Julianna Pak, an individual; and Mark Pak, an individual (collectively “Defendants”), alleging that they engaged in copyright and trademark infringement; false designation of origin, false description and representation; and unfair competition. Microsoft seeks damages, an accounting, the imposition of a constructive trust upon Defendants’ illegal profits, and injunctive relief.

## THE PARTIES

1. Microsoft is a Washington corporation with its principal place of business located in Redmond, Washington. Microsoft develops, markets, distributes and licenses computer software.

2. Ibenevolo.com is an Internet website engaged in the business of advertising, marketing, copying, offering, and/or distributing purported Microsoft software.

3. Upon information and belief, defendant Julianna Pak, an individual, does business as, owns, operates, and/or otherwise controls ibenevolo and ibenevolo.com. Upon information and belief, Julianna Pak transacts substantial business in this district. Upon information and belief, Julianna Pak (a) personally participated in and/or (b) had the right and ability to supervise, direct and control the wrongful conduct alleged in this Complaint, and (c) derived direct financial benefit from that wrongful conduct. Upon information and belief, Julianna Pak (a) has authority to bind ibenevolo.com in transactions, or (b) exercised joint ownership or control over the infringing items alleged in this Complaint.

4. Upon information and belief, defendant Mark Pak, an individual, did business as, owned, operated, and/or otherwise controlled a website, BestWholesaleSoftware.com, which was a predecessor to or has worked at relevant times with ibenevolo.com. Upon information and belief, defendant Mark Pak transacts business in this district. Upon information and belief, Mark Pak (a) personally participated in and/or (b) had the right and ability to supervise, direct and control the wrongful conduct alleged in this Complaint, and (c) derived direct financial benefit from that wrongful conduct. Upon information and belief, Mark Pak exercised joint ownership or control over the infringing items alleged in this Complaint.

5. Upon information and belief, each of the defendants was, at all times mentioned in this Complaint, acting as the agent, employee, or alter ego of every other defendant, and in doing the things mentioned herein, was acting within the course and scope of such agency, employment, or other relationship and with knowledge and consent of the other defendants.

## JURISDICTION

6. This Court has subject matter jurisdiction over Microsoft's claims for trademark infringement, copyright infringement and related claims pursuant to 15 U.S.C. § 1121, 17 U.S.C. § 501, and 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has supplemental jurisdiction over Microsoft's claims arising under the laws of Nevada pursuant to 28 U.S.C. § 1337(a) because these claims are so related to Microsoft's claims under federal law that they form part of the same case or controversy and derive from a common nucleus of operative fact.

## VENUE

8.       Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and § 1400(a) because (a) Defendants reside in the District of Nevada, and/or (b) a substantial part of the events giving rise to Microsoft's claims occurred in the District of Nevada.

#### FACTS COMMON TO ALL CLAIMS

9. Microsoft develops, advertises, markets, distributes, and licenses a number of computer software programs. Depending on the version, Microsoft's software programs are distributed recorded on discs, made available by Microsoft for download, or made available by Microsoft for pre-installation. Microsoft software programs are distributed together with associated proprietary materials such as user's guides, user's manuals, end user license agreements, Certificates of Authenticity, product keys and other components.

10. Microsoft Office 2010: Microsoft Office 2010 ("Office 2010") is a suite of  
1 popular Microsoft software programs. Microsoft holds a valid copyright in Office 2010 that  
2 was duly and properly registered with the United States Copyright Office. A true and correct  
3 copy of the Registration Certificate for Microsoft Office 2010, bearing the number TX 7-151-  
4 840, is attached hereto as Exhibit 1 and is incorporated by reference. Office Professional Plus  
5 2010 includes the following popular Microsoft software programs:  
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8 A. Microsoft Excel 2010 is a program that allows users to create  
9 spreadsheets, perform calculations, and store numerical data. Microsoft holds a valid  
10 copyright in Microsoft Excel 2010 that was duly and properly registered with the United  
11 States Copyright Office. A true and correct copy of the Copyright Registration Certificate for  
12 Microsoft Excel 2010, bearing the number TX 7-218-085, is attached hereto as Exhibit 2 and  
13 is incorporated by reference.  
14

15 B. Microsoft Outlook 2010 is a program that allows users and networked  
16 teams to create and manage calendars, tasks, and contacts. Microsoft holds a valid copyright  
17 in Microsoft Outlook 2010 that was duly and properly registered with the United States  
18 Copyright Office. A true and correct copy of the Copyright Registration Certificate for  
19 Microsoft Outlook 2010, bearing the number TX 7-206-501, is attached hereto as Exhibit 3  
20 and is incorporated by reference.  
21

22 C. Microsoft PowerPoint 2010 is a program that allows users to create,  
23 organize, and present overhead and slide presentations. Microsoft holds a valid copyright in  
24 Microsoft PowerPoint 2010 that was duly and properly registered with the United States  
25 Copyright Office. A true and correct copy of the Copyright Registration Certificate for  
26 Microsoft PowerPoint 2010, bearing the number TX 7-219-973, is attached hereto as Exhibit  
27 4 and is incorporated by reference.  
28

1                   D. Microsoft Word 2010 is a program that allows users to create and edit  
2 reports and documents. Microsoft holds a valid copyright in Microsoft Word 2010 that was  
3 duly and properly registered with the United States Copyright Office. A true and correct copy  
4 of the Copyright Registration Certificate for Microsoft Word 2010, bearing the number TX 7-  
5 206-498, is attached hereto as Exhibit 5 and is incorporated by reference.  
6

7                   E. Microsoft OneNote 2010 is a computer program that allows users to  
8 organize text, pictures, digital handwriting, and notes in one spot so that they may be accessed  
9 and shared. Microsoft holds a valid copyright in OneNote 2010 that was duly and properly  
10 registered with the United States Copyright Office. A true and correct copy of the  
11 Registration Certificate for Microsoft OneNote 2010, bearing the number TX 7-206-464, is  
12 attached hereto as Exhibit 6 and is incorporated by reference.  
13

14                   F. Microsoft Publisher 2010 is a desktop publishing program that allows  
15 users to create, customize, and publish materials such as newsletters, brochures, flyers,  
16 catalogs, and websites. Microsoft holds a valid copyright in Microsoft Publisher 2010 that  
17 was duly and properly registered with the United States Copyright Office. A true and correct  
18 copy of the Copyright Registration Certificate for Microsoft Publisher 2010, bearing the  
19 number TX 7-206-489, is attached hereto as Exhibit 7 and is incorporated by reference.  
20

21                   G. Microsoft Access 2010 is a program that allows users to create and  
22 manipulate databases and store data. Microsoft holds a valid copyright in Microsoft Access  
23 2010 that was duly and properly registered with the United States Copyright Office. A true  
24 and correct copy of the Copyright Registration Certificate for Microsoft Access 2010, bearing  
25 the number TX 7-206-461, is attached hereto as Exhibit 8 and is incorporated by reference.  
26

27                   H. Microsoft InfoPath 2010 is a computer program that allows users to  
28 collect and manage data using electronic forms. The copyright in Microsoft's InfoPath 2010

1 was duly and properly registered with the United States Copyright Office. A true and correct  
 2 copy of the Registration Certificate for Microsoft InfoPath 2010, bearing the number TX 7-  
 3 206-468, is attached hereto as Exhibit 9 and is incorporated by reference.

4 I. Microsoft SharePoint Workspace 2010 is a computer program that  
 5 allows users to access SharePoint content whether or not they are connected to the SharePoint  
 6 server or working offline. The copyright in Microsoft's SharePoint Workspace was duly and  
 7 properly registered with the United States Copyright Office. A true and correct copy of the  
 8 Registration Certificate for Microsoft SharePoint Workspace 2010, bearing the number TX 7-  
 9 206-481, is attached hereto as Exhibit 10 and is incorporated by reference.

10 11. Microsoft Office 2016: Microsoft Office 2016 ("Office 2016") is another suite  
 12 of popular Microsoft software programs. Microsoft holds a valid copyright in Office 2016  
 13 that was duly and properly registered with the United States Copyright Office. A true and  
 14 correct copy of the Registration Certificate for Microsoft Office 2016, bearing the number TX  
 15 8-097-602, is attached hereto as Exhibit 11 and is incorporated by reference.

16 17. Microsoft has also duly and properly registered a number of trademarks and a  
 18 service mark in the United States Patent and Trademark Office on the Principal Register,  
 19 including, but not limited to:

- 20 A. "ACCESS," Trademark Registration No. 3,238,869;
- 21 B. ACCESS LAUNCH ICON, Trademark Registration No. 3,905,556;
- 22 C. ACCESS LAUNCH ICON, Trademark Registration No. 4,365,955;
- 23 D. "EXCEL," Trademark Registration No. 2,942,050;
- 24 E. EXCEL LAUNCH ICON, Trademark Registration No. 3,905,558;
- 25 F. EXCEL LAUNCH ICON, Trademark Registration No. 4,355,451;
- 26 G. "INFOPATH," Trademark Registration No. 2,890,260;

1 H. INFOPATH LAUNCH ICON, Trademark Registration No. 3,905,557;

2 I. "MICROSOFT," Trademark and Service Mark Registration No.

3 1,200,236;

4 J. "MICROSOFT OFFICE," Trademark Registration No. 3,625,391;

5 K. OFFICE 2010 DESIGN, Trademark Registration No. 4,029,299;

6 L. OFFICE 2012 DESIGN WITH TEXT, Trademark Registration No.

7 4,456,462;

8 M. OFFICE 2012 DESIGN, Trademark Registration No. 4,459,826;

9 N. "ONENOTE," Trademark Registration No. 2,844,710;

10 O. ONENOTE LAUNCH ICON, Trademark Registration No. 3,905,559;

11 P. ONENOTE LAUNCH ICON, Trademark Registration No. 4,351,584;

12 Q. "OUTLOOK," Trademark Registration No. 2,188,125;

13 R. OUTLOOK LAUNCH ICON, Trademark Registration No. 3,905,560;

14 S. OUTLOOK LAUNCH ICON, Trademark Registration No. 4,355,446;

15 T. "POWERPOINT," Trademark Registration No. 1,475,795;

16 U. POWERPOINT LAUNCH ICON, Trademark Registration No.

17 3,905,561;

18 V. POWERPOINT LAUNCH ICON, Trademark Registration No.

19 4,385,388;

20 W. PUBLISHER LAUNCH ICON, Trademark Registration No.

21 3,909,142;

22 X. PUBLISHER LAUNCH ICON, Trademark Registration No.

23 4,355,448;

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1 Y. "SHAREPOINT," Trademark Registration No. 2,854,862, for computer  
2 programs;

3 Z. SHAREPOINT LAUNCH ICON, Trademark Registration No.  
4 3,909,144;

5 AA. WORD LAUNCH ICON, Trademark Registration No. 3,909,143; and  
6 BB. WORD LAUNCH ICON, Trademark Registration No. 4,355,444;

7  
8  
9 True and correct copies of the Trademark Registrations for A through BB above are  
10 attached hereto as Exhibits 12 through 39, respectively, and are incorporated by reference.

11 **DEFENDANTS' INFRINGEMENT**

12 13. On information and belief, Defendants advertised, marketed, copied, offered  
13 and/or distributed unauthorized copies of Microsoft software and/or components, despite  
14 having notice that their conduct infringed Microsoft's copyrights, trademarks and/or service  
15 mark.

16 14. On information and belief, Defendants indicate that they distribute genuine  
17 Microsoft software, and in their advertisements, Defendants misappropriate and/or infringe  
18 Microsoft's copyrights, advertising ideas, style of doing business, slogans, trademarks and/or  
19 service mark. The Microsoft software sold by Defendants is actually infringing.

20 21 15. On information and belief, Defendants knew or should have known that they  
22 were distributing infringing copies of Microsoft software.

23 24 16. Nevertheless, in December 2015, Defendants made and/or distributed to an  
25 investigator via Internet download an unauthorized and infringing copy of Microsoft Office  
26 2010 software.

17. In December 2015, Defendants also made and/or distributed to an investigator via Internet download an unauthorized and infringing copy of Microsoft Office 2016 software.

18. On information and belief, these are not isolated incidents, and Defendants' infringement is not limited to Office software. Rather, Defendants have been and continue to be involved in advertising, marketing, copying, offering, and/or distributing counterfeit and infringing copies of Microsoft's software and/or related components to other persons or entities.

19. On information and belief, Defendants have committed and are continuing to commit acts of copyright and trademark infringement against Microsoft. On information and belief, at a minimum, Defendants were willfully blind and acted in reckless disregard of Microsoft's registered copyrights, trademarks and service marks.

20. On information and belief, Microsoft has been harmed by Defendants' activities, including their advertising activities and unauthorized use of Microsoft's copyright protected material, and the unauthorized use of Microsoft's marks to describe the items that Defendants are distributing.

**FIRST CLAIM**  
[Copyright Infringement – 17 U.S.C. § 501, et seq.]  
Against Defendants

21. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 20, inclusive.

22. Microsoft is the sole owner of Microsoft Office 2010, Excel 2010, Outlook 2010, PowerPoint 2010, Word 2010, Publisher 2010, Access 2010, OneNote 2010, InfoPath 2010, SharePoint Workspace 2010, and Office 2016, and of the corresponding copyrights and Certificates of Registration.

1           23. Defendants have infringed the copyrights in Microsoft's software, including  
 2 but not limited to Microsoft Office 2010, Excel 2010, Outlook 2010, PowerPoint 2010, Word  
 3 2010, Publisher 2010, Access 2010, OneNote 2010, InfoPath 2010, SharePoint Workspace  
 4 2010, and Office 2016, by advertising, marketing, copying, offering, and/or distributing  
 5 infringing materials in the United States of America without approval or authorization from  
 6 Microsoft.  
 7

8           24. At a minimum, Defendants acted with willful blindness to and in reckless  
 9 disregard of Microsoft's registered copyrights.

10          25. Defendants (a) caused, induced, or materially contributed to unauthorized  
 11 copying in the United States of America of Microsoft software, including but not limited to  
 12 Microsoft Office 2010, Excel 2010, Outlook 2010, PowerPoint 2010, Word 2010, Publisher  
 13 2010, Access 2010, OneNote 2010, InfoPath 2010, SharePoint Workspace 2010, and Office  
 14 2016, and had reason to know about such copying and/or (b) had the right and ability to  
 15 supervise, direct and control such unauthorized copying and (c) derived direct financial  
 16 benefit from it.

17          26. As a result of their wrongful conduct, Defendants are liable to Microsoft for  
 18 copyright infringement. 17 U.S.C. § 501. Microsoft has suffered damages. Microsoft is  
 19 entitled to recover damages, which include any and all profits Defendants have made as a  
 20 result of their wrongful conduct. 17 U.S.C. § 504. Alternatively, Microsoft is entitled to  
 21 statutory damages under 17 U.S.C. § 504(c).  
 22

23          27. In addition, for the reasons set forth above, the award of statutory damages  
 24 should be enhanced in accordance with 17 U.S.C. § 504(c)(2).  
 25

26          28. Microsoft is also entitled to injunctive relief pursuant to 17 U.S.C. § 502 and to  
 27 an order impounding any and all infringing materials pursuant to 17 U.S.C. § 503. Microsoft  
 28

1 has no adequate remedy at law for Defendants' wrongful conduct because, among other  
2 things, (a) Microsoft's copyrights are unique and valuable property which have no readily  
3 determinable market value, (b) Defendants' infringement harms Microsoft such that Microsoft  
4 could not be made whole by any monetary award, and (c) Defendants' wrongful conduct, and  
5 the resulting damage to Microsoft, is continuing.

6 29. Microsoft is also entitled to recover its attorneys' fees and costs of suit. 17  
7 U.S.C. § 505.

9 **SECOND CLAIM**  
10 **[Trademark Infringement – 15 U.S.C. § 1114]**  
11 **Against Defendants**

12 30. Microsoft repeats and incorporates by this reference each and every allegation  
13 set forth in paragraphs 1 through 29, inclusive.

14 31. Defendants' activities constitute infringement of Microsoft's federally  
15 registered trademarks and service mark in violation of the Lanham Trademark Act, including  
16 but not limited to 15 U.S.C. § 1114(1).

17 32. Because Microsoft advertises, markets, distributes, and licenses its software  
18 under the trademarks and service mark described in this Complaint, these trademarks and  
19 service mark are the means by which Microsoft's software is distinguished from the software  
20 and related items of others in the same or related fields.

21 33. Because of Microsoft's long, continuous, and exclusive use of these  
22 trademarks and service mark, they have come to mean, and are understood by customers, end  
23 users, and the public to signify, software programs or services of Microsoft.

24 34. The infringing materials that Defendants have and are continuing to advertise,  
25 market, copy, offer, and/or distribute are likely to cause confusion, mistake, or deception as to  
26 their source, origin, or authenticity.

1       35. Further, Defendants' activities are likely to lead the public to conclude,  
 2 incorrectly, that the infringing materials that Defendants are advertising, marketing, copying,  
 3 offering, and/or distributing originate with or are authorized by Microsoft, to the damage and  
 4 harm of Microsoft, its licensees, and the public.

5       36. Upon information and belief, Defendants advertised, marketed, copied, offered  
 6 and/or distributed infringing material with the purpose of misleading or confusing customers  
 7 and the public as to the origin and authenticity of the infringing materials and of trading upon  
 8 Microsoft's business reputation.

9       37. At a minimum, Defendants acted with willful blindness to and in reckless  
 10 disregard of Microsoft's registered marks.

11       38. Defendants had reason to know about their infringement of Microsoft's  
 12 federally registered trademarks and service mark and caused, induced, or materially  
 13 contributed to it.

14       39. As a result of their wrongful conduct, Defendants are liable to Microsoft for  
 15 trademark infringement. 15 U.S.C. § 1114(1). Microsoft has suffered damages. Microsoft is  
 16 entitled to recover damages, which include any and all profits Defendants have made as a  
 17 result of their wrongful conduct. 15 U.S.C. § 1117(a).

18       40. In addition, because of Defendants' infringement of Microsoft's trademarks  
 19 and service mark as described above, the award of actual damages and profits should be  
 20 trebled pursuant to 15 U.S.C. §1117(b). Alternatively, Microsoft is entitled to statutory  
 21 damages under 15 U.S.C. § 1117(c).

22       41. Microsoft is also entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a)  
 23 and to an order compelling the impounding of all infringing materials advertised, marketed,  
 24 copied, offered and/or distributed by Defendants pursuant to 15 U.S.C. § 1116, subsections

1 (a) and (d)(1)(A). Microsoft has no adequate remedy at law for Defendants' wrongful  
 2 conduct because, among other things, (a) Microsoft's trademarks and service mark are unique  
 3 and valuable property which have no readily determinable market value, (b) Defendants'  
 4 infringement constitutes harm to Microsoft's such that Microsoft could not be made whole by  
 5 any monetary award, (c) if Defendants' wrongful conduct is allowed to continue, the public is  
 6 likely to become further confused, mistaken, or deceived as to the source, origin or  
 7 authenticity of the infringing materials, and (d) Defendants' wrongful conduct, and the  
 8 resulting damage to Microsoft, is continuing.

10 42. Microsoft is also entitled to recover its attorneys' fees and costs of suit. 15  
 11 U.S.C. § 1117.

12 **THIRD CLAIM**  
 13 **[False Designation Of Origin, False Description And Representation –**  
 14 **15 U.S.C. § 1125 et seq.]**  
**Against Defendants**

15 43. Microsoft repeats and incorporates by this reference each and every allegation  
 16 set forth in paragraphs 1 through 42, inclusive.

18 44. Because Microsoft advertises, markets, distributes, and licenses its software  
 19 under the trademarks and service mark described in this Complaint, these trademarks and  
 20 service mark are the means by which Microsoft's software is distinguished from the software  
 21 or products of others in the same field or related fields.

22 45. Because of Microsoft's long, continuous, and exclusive use of these  
 23 trademarks and service mark, they have come to mean, and are understood by customers, end  
 24 users, and the public to signify, software or services of Microsoft.

26 46. Microsoft has also designed distinctive and aesthetically pleasing displays,  
 27 logos, icons, graphic images, and packaging (collectively, "Microsoft visual designs") for its  
 28 software programs.

1       47. Defendants' wrongful conduct includes the use of Microsoft's marks, name,  
 2 and/or imitation visual designs, and specifically displays, logos, icons, graphic designs, and/or  
 3 packaging virtually indistinguishable from Microsoft visual designs, in connection with their  
 4 goods and services.

5       48. Upon information and belief, Defendants engaged in such wrongful conduct  
 6 with the purpose of misleading or confusing customers and the public as to the origin and  
 7 authenticity of the goods and services advertised, marketed, copied, offered and/or distributed  
 8 in connection with Microsoft's marks, name, and imitation visual designs, and of trading upon  
 9 Microsoft's goodwill and business reputation. Defendants' conduct constitutes (a) false  
 10 designation of origin, (b) false or misleading description, and (c) false or misleading  
 11 representation that the imitation visual images originate from or are authorized by Microsoft,  
 12 all in violation of § 43(a) of the Lanham Trademark Act, set forth at 15 U.S.C. § 1125(a).  
 13

14       49. Defendants' wrongful conduct is likely to continue unless restrained and  
 15 enjoined.

16       50. As a result of Defendants' wrongful conduct, Microsoft has suffered and will  
 17 continue to suffer damages. Microsoft is entitled to injunctive relief and to an order  
 18 compelling the impounding of all imitation marks and visual designs being used, advertised,  
 19 marketed, copied, offered and/or distributed by Defendants. Microsoft has no adequate  
 20 remedy at law for Defendants' wrongful conduct because, among other things, (a) Microsoft's  
 21 marks, name and visual designs are unique and valuable property which have no readily-  
 22 determinable market value, (b) Defendants' advertising, marketing, copying, and/or  
 23 distribution of imitation visual designs constitutes harm to Microsoft such that Microsoft  
 24 could not be made whole by any monetary award, and (c) Defendants' wrongful conduct, and  
 25 the resulting damage to Microsoft, are continuing.  
 26  
 27  
 28

**FOURTH CLAIM**  
[Nevada Common Law Unfair Competition and Unfair Trade Practices]  
Against Defendants

51. Microsoft realleges, and incorporates by this reference, each and every allegation set forth in paragraphs 1 through 50 inclusive.

52. The acts and conduct of Defendants as alleged above in this complaint constitute unfair competition proscribed by the common law of the State of Nevada.

53. Defendants' acts and conduct are likely to confuse the public into believing that the items being offered or distributed by Defendants originate with, or are sponsored, approved or authorized by Microsoft in violation of Microsoft's rights under the common law of unfair competition of the State of Nevada.

54. Defendants' conduct as alleged above has damaged Microsoft and resulted in an illicit gain of profit to Defendants in an amount that is unknown at the present time.

**FIFTH CLAIM**  
**[For Imposition Of A Constructive Trust Upon Illegal Profits]**  
**Against Defendants**

55. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 54, inclusive.

56. Defendants' conduct constitutes deceptive and wrongful conduct in the nature of passing off the infringing materials as genuine Microsoft software or related components approved or authorized by Microsoft.

57. By virtue of Defendants' wrongful conduct, Defendants have illegally received money and profits that rightfully belong to Microsoft.

58. Upon information and belief, Defendants hold the illegally received money and profits in the form of bank accounts, real property, or personal property that can be located and traced.

59. Defendants hold the money and profits they have illegally received as constructive trustees for the benefit of Microsoft.

**SIXTH CLAIM  
[Accounting]  
Against Defendants**

60. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 59, inclusive.

61. Microsoft is entitled, pursuant to 17 U.S.C. § 504 and 15 U.S.C. § 1117, to recover any and all profits of Defendants that are attributable to their acts of infringement.

62. Microsoft is entitled, pursuant to 17 U.S.C. § 504 and 15 U.S.C. § 1117, to actual damages or statutory damages sustained by virtue of Defendants' acts of infringement.

63. The amount of money due from Defendants to Microsoft is unknown to Microsoft and cannot be ascertained without a detailed accounting by Defendants of the precise number of units of infringing material advertised, marketed, copied, offered and/or distributed by Defendants.

## PRAYER FOR RELIEF

WHEREFORE, Microsoft respectfully requests judgment as follows:

(1) That the Court enter a judgment against Defendants as indicated below:

(a) that Defendants have willfully infringed Microsoft's rights in the following federally registered copyrights, in violation of 17 U.S.C. § 501:

- (1) TX 7-151-840 ("Office 2010");
- (2) TX 7-218-085 ("Excel 2010");
- (3) TX 7-206-501 ("Outlook 2010");
- (4) TX 7-219-973 ("PowerPoint 2010");
- (5) TX 7-206-498 ("Word 2010");

- (6) TX 7-206-489 (“Publisher 2010”);
- (7) TX 7-206-461 (“Access 2010”);
- (8) TX 7-206-464 (“OneNote 2010”);
- (9) TX 7-206-468 (“InfoPath 2010”);
- (10) TX 7-206-481 (“SharePoint Workspace 2010”); and
- (11) TX 8-097-602 (Office 2016);

(b) that Defendants have willfully infringed Microsoft's rights in the

following federally registered trademarks and service mark, in violation of 15 U.S.C. § 1114:

- (1) 3,238,869 (“ACCESS”);
- (2) 3,905,556 (ACCESS LAUNCH ICON);
- (3) 4,365,955 (ACCESS LAUNCH ICON);
- (4) 2,942,050 (“EXCEL”);
- (5) 3,905,558 (EXCEL LAUNCH ICON);
- (6) 4,355,451 (EXCEL LAUNCH ICON);
- (7) 2,890,260 (“INFOPATH”);
- (8) 3,905,557 (INFOPATH LAUNCH ICON);
- (9) 1,200,236 (“MICROSOFT”);
- (10) 3,625,391 (“MICROSOFT OFFICE”);
- (11) 4,029,299 (OFFICE 2010 DESIGN);
- (12) 4,456,462 (OFFICE 2012 DESIGN WITH
- (13) 4,459,826 (OFFICE 2012 DESIGN);
- (14) 2,844,710 (“ONENOTE”);
- (15) 3,905,559 (ONENOTE LAUNCH ICON);
- (16) 4,351,584 (ONENOTE LAUNCH ICON);

- 1 (17) 2,188,125 ("OUTLOOK");
- 2 (18) 3,905,560 (OUTLOOK LAUNCH ICON);
- 3 (19) 4,355,446 (OUTLOOK LAUNCH ICON);
- 4 (20) 1,475,795 ("POWERPOINT");
- 5 (21) 3,905,561 (POWERPOINT LAUNCH ICON);
- 6 (22) 4,385,388 (POWERPOINT LAUNCH ICON);
- 7 (23) 3,909,142 (PUBLISHER LAUNCH ICON);
- 8 (24) 4,355,448 (PUBLISHER LAUNCH ICON);
- 9 (25) 2,854,862 ("SHAREPOINT");
- 10 (26) 3,909,144 (SHAREPOINT LAUNCH ICON);
- 11 (27) 3,909,143 (WORD LAUNCH ICON); and
- 12 (28) 4,355,444 (WORD LAUNCH ICON);

13 (c) that Defendants have committed and are committing acts of false  
14 designation of origin, false or misleading description of fact, and false or misleading  
15 representation against Microsoft, in violation of 15 U.S.C. § 1125(a);

16 (d) that Defendants have engaged in unfair competition in violation of  
17 Nevada common law; and

18 (e) that Defendants have otherwise injured the business reputation and  
19 business of Microsoft by the acts and conduct set forth in this Complaint.

20 (2) That the Court issue injunctive relief against Defendants, and that Defendants,  
21 their directors, principals, officers, agents, representatives, servants, employees, attorneys,  
22 successors and assigns, and all others in active concert or participation with Defendants, be  
23 enjoined and restrained from:

(a) imitating, copying, or making any other infringing use or infringing distribution of the software programs, components, end user license agreements (“EULA”), Certificates of Authenticity (“COAs”) and/or items protected by the following copyright Certificate Registration Nos.:

**Certificate Registration Nos.:**

- (1) TX 7-151-840 (“Office 2010”);
- (2) TX 7-218-085 (“Excel 2010”);
- (3) TX 7-206-501 (“Outlook 2010”);
- (4) TX 7-219-973 (“PowerPoint 2010”);
- (5) TX 7-206-498 (“Word 2010”);
- (6) TX 7-206-489 (“Publisher 2010”);
- (7) TX 7-206-461 (“Access 2010”);
- (8) TX 7-206-464 (“OneNote 2010”);
- (9) TX 7-206-468 (“InfoPath 2010”);
- (10) TX 7-206-481 (“SharePoint Workspace 2010”); and
- (11) TX 8-097-602 (Office 2016);

or the software programs, components and/or items protected by Microsoft's registered trademarks and service mark, including, but not limited to, the following

Trademark Registration Nos.:

- (1) 3,238,869 (“ACCESS”);
- (2) 3,905,556 (ACCESS LAUNCH ICON);
- (3) 4,365,955 (ACCESS LAUNCH ICON);
- (4) 2,942,050 (“EXCEL”);
- (5) 3,905,558 (EXCEL LAUNCH ICON);
- (6) 4,355,451 (EXCEL LAUNCH ICON);

1 (7) 2,890,260 ("INFOPATH");  
2 (8) 3,905,557 (INFOPATH LAUNCH ICON);  
3 (9) 1,200,236 ("MICROSOFT");  
4 (10) 3,625,391 ("MICROSOFT OFFICE");  
5 (11) 4,029,299 (OFFICE 2010 DESIGN);  
6 (12) 4,456,462 (OFFICE 2012 DESIGN WITH TITLE);  
7 (13) 4,459,826 (OFFICE 2012 DESIGN);  
8 (14) 2,844,710 ("ONENOTE");  
9 (15) 3,905,559 (ONENOTE LAUNCH ICON);  
10 (16) 4,351,584 (ONENOTE LAUNCH ICON);  
11 (17) 2,188,125 ("OUTLOOK");  
12 (18) 3,905,560 (OUTLOOK LAUNCH ICON);  
13 (19) 4,355,446 (OUTLOOK LAUNCH ICON);  
14 (20) 1,475,795 ("POWERPOINT");  
15 (21) 3,905,561 (POWERPOINT LAUNCH ICON);  
16 (22) 4,385,388 (POWERPOINT LAUNCH ICON);  
17 (23) 3,909,142 (PUBLISHER LAUNCH ICON);  
18 (24) 4,355,448 (PUBLISHER LAUNCH ICON);  
19 (25) 2,854,862 ("SHAREPOINT");  
20 (26) 3,909,144 (SHAREPOINT LAUNCH ICON);  
21 (27) 3,909,143 (WORD LAUNCH ICON); and  
22 (28) 4,355,444 (WORD LAUNCH ICON);

23 and any other items or works now or hereafter protected by any Microsoft copyright,  
24 trademark or service mark;  
25

(b) manufacturing, assembling, producing, distributing, offering for distribution, circulating, selling, offering for sale, advertising, importing, promoting, or displaying any software program, component, EULA, COA and/or item bearing any simulation, reproduction, counterfeit, copy, or colorable imitation of any of Microsoft's registered trademarks, service mark, or copyrights, including, but not limited to, the Trademark, Service Mark, and Copyright Registration Numbers listed in Sections (2)(a) above;

(c) using any simulation, reproduction, counterfeit, copy, or colorable imitation of Microsoft's registered trademarks, service mark, or copyright including, but not limited to the Trademark, Service Mark, and Copyright Registration Numbers listed in Section (2)(a) above, in connection with the manufacture, assembly, production, distribution, offering for distribution, circulation, sale, offering for sale, import, advertisement, promotion, or display of any software program, component, EULA, COA, and/or item not authorized or licensed by Microsoft;

(d) using any false designation of origin or false or misleading description or false or misleading representation that can or is likely to lead the trade or public or individuals erroneously to believe that any software program, component, and/or item has been manufactured, assembled, produced, distributed, offered for distribution, circulation, sold, offered for sale, imported, advertised, promoted, displayed, licensed, sponsored, approved, or authorized by or for Microsoft, when such is not true in fact;

(e) engaging in any other activity constituting an infringement of any of Microsoft's trademarks, service mark and/or copyrights, or of Microsoft's rights in, or right to use or to exploit, these trademarks, service mark, and/or copyrights; and

1 (f) assisting, aiding, or abetting any other person or business entity in  
2 engaging in or performing any of the activities referred to in subparagraphs (a) through (e)  
3 above.

4 (3) That the Court enter an order pursuant to 15 U.S.C. § 1116(a)(d)(1)(A) and 17  
5 U.S.C. § 503 impounding all counterfeit and infringing copies of purported Microsoft  
6 software and/or materials bearing any of Microsoft's trademarks or service mark, and any  
7 related item, including business records, that is in Defendants' possession or under their  
8 control;

9 (4) That the Court enter an order that Defendants' websites be disabled by the  
10 appropriate domain name registries and/or the registrars holding or listing the domain names  
11 of the websites;

12 (5) That the Court enter an order declaring that Defendants hold in trust, as  
13 constructive trustees for the benefit of Microsoft, their illegal profits obtained from their  
14 distribution of counterfeit and infringing copies of Microsoft's software, and requiring  
15 Defendants to provide Microsoft a full and complete accounting of all amounts due and owing  
16 to Microsoft as a result of Defendants' illegal activities.

17 (6) That the Court order Defendants to pay Microsoft's general, special, actual,  
18 and statutory damages as follows:

19 (a) Microsoft's damages and Defendants' profits pursuant to 17 U.S.C. §  
20 504(b), or alternatively, enhanced statutory damages pursuant to 17 U.S.C. § 504(c), and 17  
21 U.S.C. § 504(c)(2);

22 (b) Microsoft's damages and Defendants' profits pursuant to 15 U.S.C. §  
23 1117(a), trebled pursuant to 15 U.S.C. § 1117(b), or in the alternative, statutory damages  
24 pursuant to 15 U.S.C. §1117(c) for each counterfeit mark; and

1 (c) Microsoft's damages and Defendants' profits pursuant to Nevada  
2 common law.

3 (7) That the Court order Defendants to pay to Microsoft both the costs of this  
4 action and the reasonable attorneys' fees incurred by it in prosecuting this action; and

5 (8) That the Court grant to Microsoft such other and additional relief as is just and  
6 proper.

7 DATED March 2, 2016.

8  
9 GUILD, GALLAGHER & FULLER, LTD.  
10

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